

JUDGE SEIBEL

5

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Rocco Costabile

17 CV 8488

Write the full name of each plaintiff.

CV  
(Include case number if one has been assigned)

-against-

Do you want a jury trial?

New York District Council of Carpenters,  
William Lacey

☐ Yes ☒ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

FILED  
U.S. DISTRICT COURT  
NOV 2 2017  
SDNY

**I. PARTIES****A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Rocco		Costabile
First Name	Middle Initial	Last Name
739 Midland Avenue		
Street Address		
Westchester, Yonkers	NY	10704
County, City	State	Zip Code
914-552-1766		
Telephone Number		Email Address (if available)

**B. Defendant Information**

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	NYC District Council of Carpenters		
	Name		
	395 Hudson Street 9th Floor		
	Address where defendant may be served		
	Manhattan, NY	NY	10014
	County, City	State	Zip Code
Defendant 2:	William Lacey at NYC District Council of Carpenters		
	Name		
	395 Hudson Street 9th Floor		
	Address where defendant may be served		
	Manhattan, NY	NY	10014
	County, City	State	Zip Code

Defendant 3:

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 Name

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 Address where defendant may be served

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 County, City

State

Zip Code

**II. PLACE OF EMPLOYMENT**

The address at which I was employed or sought employment by the defendant(s) is:  
 NYCHHC/ NORTH CENTRAL BRONX HOSPITAL

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 Name

3424 Kossuth Avenue

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 Address

Bronx, NY

NY

10467

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 County, City

State

Zip Code

**III. CAUSE OF ACTION****A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☒ **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin**

The defendant discriminated against me because of my (check only those that apply and explain):

☒ race:

☐ color:

☐ religion:

☐ sex:

☒ national origin:

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: \_\_\_\_\_

- ☐ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: \_\_\_\_\_

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: \_\_\_\_\_

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

**B. Other Claims**

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

\_\_\_\_\_

#### IV. STATEMENT OF CLAIM

##### A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☐ terminated my employment
- ☐ did not promote me
- ☐ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☒ other (specify): misrepresentation and no representation

##### B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

SEE ATTACHMENT

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

**B Facts:****Page 5**

After I was terminated from NYCHHC as a carpenter, William Lacey drew a line through my name meaning that I no longer had a job with NYCHHC leaving my position as carpenter opened to someone else. He never once looked into my situation to assist me as my Civil Service Union Rep. Prior to my employment at NYCHHC I had a civil service job as carpenter with NYC Housing Authority. At the hiring pool/ interview for NYC Housing Authority William Lacey was there representing carpenters for the civil service position. William Lacey title at NYC District Council of Carpenters is Director of Civil Service. I took the job with the NYC Housing and then was called for a hiring pool/ interview with NYCHHC and William Lacey was present once again. In July 2001 I resigned my position with NYC Housing Authority and took the job at NYCHHC. Several times I needed representation from my union rep Mr. Lacey which never materialized. After having problems with Carpenter Foreman Malick Byrne my union rep sided with Malick Byrne and NYCHHC management. After all was said and done Labor Relations dept. came to the realization that I was falsely accused and found not at fault with unfounded allegations from Malick Byrne. Still my union rep never came to my aid. Also, at the time of this incident I was suspended from May 1, 2007-December 19, 2008. According to the Civil Service rule book I should have been out only 30 days and back on payroll. I lost thousands of dollars because of this injustice. When I put in a grievance for this incident and I wanted to collect back money that was owed to me Mr. Lacey with the District Council and their lawyer drew up a Stipulation Agreement for me to sign for money that was owed me. The problem with signing this agreement was they were asking me to lie to get paid for money that was owed and still unpaid to this day for over \$60,000.00 plus interest. Secondly, there was a conflict of interest where the counsel for the district council cannot represent both parties. And, he was not my attorney but the NYC District Councils. If, William Lacey did his job representing me they would not have owed me all this money. That never happened and once again William Lacey/ NYC District Council failed me. On top of that William Lacey and Martin Lydon along with the NYC District Council backed the wrong member-Malick Byrne who was ask to resign after Johnston Control the Mgmt. Company for NYCHHC caught Malick Byrne stealing and is no longer employed at NYCHHC. In conclusion, I recently found out when I applied for my pension, that my employment with NYCHHC was not a civil service job. Had I been aware that it was not a civil service job I would have stayed with my former agency at NYC Housing Authority! So I ask how William Lacey becomes a representative for all of the carpenters at NYCHHC. And, I would not have lost 5 years of work and hundreds of thousands of dollars in salary, pension and benefits for injuries sustained while employed at NYCHHC. My employment was cut short due to these injuries and the lack of meaningful union representation.

## V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 12/31/2016

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? August 2, 2017

When did you receive the Notice? August 16, 2017

☐ No

## VI. RELIEF

The relief I want the court to order is (check only those that apply):

☐ direct the defendant to hire me

☒ direct the defendant to re-employ me

☐ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☒ direct the defendant to reasonably accommodate my disability

☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

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EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b>		Charge Presented To: _____ Agency(ies) Charge No(s): <b>520-2016-02540</b>	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
<b>New York State Division Of Human Rights</b> and EEOC			
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.) <b>Mr. Rocco Costabile</b>		Home Phone (incl. Area Code) <b>(914) 968-0035</b>	Date of Birth <b>1953</b>
Street Address <b>739 Midland Avenue, Yonkers, NY 10704</b>			
City, State and ZIP Code			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>NYC DISTRICT COUNCIL OF CARPENTERS</b>		No. Employees, Members <b>15 - 100</b>	Phone No. (Include Area Code) <b>(212) 366-1550</b>
Street Address <b>395 Hudson Street, 9th Floor, New York, NY 10014</b>			
City, State and ZIP Code			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify) _____		Earliest    Latest <b>09-10-2015    09-10-2015</b> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
<p>I, Rocco Costabile am a White-Italian Male who was employed at NYC Health &amp; Hospital Corporation as a Carpenter from July 3, 2001 until September 10, 2015. At the time of my employment I was a member of NYC District Council of Carpenters and in good standing. During the aforementioned time period, my performance was always satisfactory or better. I have a qualifying disability, and my employer is aware of my disability. I believe that I was discriminated against on the basis of my disability, race, national origin, and in retaliation for participating in protected activity when I was wrongfully terminated.</p> <p>Specifically, I underwent four surgeries related to my disabilities. My employer was responsible for multiple delays and denials of medical treatments, medication, physical therapy, and income. Due to these unwarranted delays and denials my condition deteriorated further. Other similarly disabled non-White-Italian employees were not subjected to the same treatment and were accommodated. Due to the severe neglect from my employer to properly attend to my issues as well as lack of representation from my union, I suffered many losses. I was out for an extended period of time, and was never provided the opportunity to return to work, despite being able to perform the essential functions of my job. Instead, I was terminated while I was out.</p> <p>Based on the above, I believe I was discriminated against in violation of Title I of the Americans with Disabilities Act of 1990 (as amended), Title VII of the Civil Rights Act of 1964 (as amended), and other applicable Federal, state, and local anti-discrimination statutes.</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

*Rocco Costabile*

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

*Gina Marie Ianucilli*  
 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.  
 SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE **12/31/16**  
 (month, day, year)

**GINA MARIE IANUCILLI**  
 Notary Public - State of New York  
 No. 011A6242527

Qualified in Putnam County  
 My Commission Expires June 6, 2017 *P*





U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
New York District Office

33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10004-2112  
For General Information: (800) 669-4000  
TTY: (800)-669-6820  
District Office: (212) 336-3620  
General FAX: (212) 336-3625

Rocco Costabile  
739 Midland Avenue  
Yonkers, NY 10704

Re: Costabile v. NYC Health and Hospital Corporation  
EEOC Charge No.: 520-2016-01956

Costabile v. NYC District Council of Carpenters  
EEOC Charge No.: 520-2016-02540

Dear Mr. Costabile,

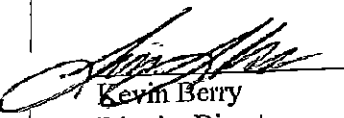
The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge based upon the information and evidence you submitted. Based on its analysis of all the evidence submitted, the Commission is unable to conclude that the information establishes a violation of Federal law on the part of Respondent. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. Included with this letter is your Notice of Dismissal and Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Please contact Federal Investigator Sarina Shaver at (212) 336-3776 if you have any questions.

Sincerely,

  
Kevin Berry  
District Director

for

8/2/17  
Date

Enclosure(s):

EEOC Form 161, "Dismissal and Notice of Rights"  
Copy of EEOC handout, "Facts About Filing"

1A

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Rocco Costabile**  
**739 Midland Avenue**  
**Yonkers, NY 10704**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**520-2016-02540**

**Sarina L. Shaver,**  
**Investigator**

**(212) 336-3776**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

On behalf of the Commission

*Kevin J. Berry*  
**Kevin J. Berry,**  
**District Director**

**8/2/17**  
 (Date Mailed)

Enclosures(s)

cc:

**Matthew Walker**  
**Director of Operations**  
**NYCDDC**  
**395 Hudson Street**  
**9th Floor**  
**New York, NY 10014**

2A

In 2010 I filed charges of discrimination based upon retaliation, disability and national origin with the EEOC. When there was a disciplinary hearing for me in 2007 at NYCHHC/ Jacobi Hospital. Although, I did not attend, my shop steward Jimmy Cramer did along with Carpenter Foreman Malick Byrne, Michael Rawlings Supt. of Engr. & Maint. and Martin Lydon, Civil Service Rep. I was told by Shop Steward Jimmy Cramer that the Civil Service Rep Martin Lydon said to Michael Rawlings that we dropped the ball and he was hoping that I would have been fired instead. However, the conclusion of the hearing was that I had done nothing wrong and should be back on payroll. I was put back on payroll but not back on the job by NYCHHC/ Jacobi/ HR Dept. until December 2008 After, I was brought back to work they sent me to another hospital which was not my pick. They sent me to NYCHHC/ North Central Bronx. I had to walk very far after parking my car this only aggravated my disability. Once again the union and District Council did nothing to represent me. In, October of 2012 I mailed 2 quarterly dues checks to the union to keep me in good standing because I was out on a disability and not on payroll where the hospital normally pays. Once again I was discriminated against when both checks were return not accepting my money. I have been in good standing with the union sine I joined in 1974 by paying my dues.

**VII. PLAINTIFF'S CERTIFICATION**

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>11/02/2017</u>		<u>Rocco Costabile</u>
Dated		Plaintiff's Signature
Rocco		Costabile
First Name	Middle Initial	Last Name
<u>739 Midland Avenue</u>		
Street Address		
<u>Westchester, Yonkers</u>	<u>NY</u>	<u>10704</u>
County, City	State	Zip Code
<u>914-552-1766</u>		
Telephone Number		Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☐ Yes   ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.